



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **Janos GERGELY, et al.**Serial No.: **09/916,004**Examiner: **NGUYEN, Chi Q.**Filed: **July 26, 20001**Group Art Unit: **3637**Title: **COMPOSITE SYSTEMS AND METHODS FOR
ANCHORING WALLS**

**RESPONSE TO OFFICE ACTION
AND REQUEST FOR RECONSIDERATION**Commissioner for Patents
Washington, DC 20231

Sir:

This Request for Reconsideration is filed in response to the non-final Office Action mailed October 9, 2002.

The originally-filed application claimed priority to U.S. Provisional Patent Application No. 60/244,301, filed October 31, 2000. The Office Action, however, does not acknowledge this claim for domestic priority under 35 U.S.C. § 119(e). Applicant respectfully requests the Office's acknowledgment to the claim for priority to the above-mentioned provisional application.

Applicant respectfully requests reconsideration of the claims in view of the remarks that follow.

A. Claims 1-13

Claims 1-7 and 11-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,145,260 to Morton (hereinafter "Morton") in view of U.S. Patent No. 5,979,123 to Brockman (hereinafter "Brockman"). Claims 8-10 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Morton in view of Brockman and U.S. Patent No. 4,903,450 to Adams (hereinafter "Adams"). Claims 2-13 depend ultimately from independent claim 1.

respectfully traverse the rejection to claim 1 because neither Morton nor Brockman, singularly or in combination, teaches or suggests every element of claim 1. One of the criteria for a prima facie case of obviousness is that “the prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP § 2143.

Claim 1 claims a construction system, which includes “one or more anchoring devices, each anchoring device having a second portion . . . the second portion of each anchoring device fixedly attached to the base member wherein each anchoring device comprises a fiber composite material.”

As recognized by the Office Action, Morton does not disclose “a second portion of the anchoring device fixedly attached to a base member which is a foundation/footing . . .” Thus, Morton does not disclose “each anchoring device fixedly attached to the base member wherein each anchoring device comprises a fiber composite material.” The Office Action cites Brockman for showing “a sheet material (44) made of plastic having a first portion (25) attached to a structural member (10, 12) and a second portion (29, 32, 34) fixed attached to a foundation/footing (14). . . .” The sheet material (44) disclosed in Brockman is made of plastic, which is not a fiber composite material. Thus, Brockman does not disclose “each anchoring device fixedly attached to the base member wherein each anchoring device comprises a fiber composite material.” As neither Morton nor Brockman, alone or in combination, describes “each anchoring device fixedly attached to the base member wherein each anchoring device comprises a fiber composite material,” claim 1 is patentable over Morton in view of Brockman.

Notwithstanding the deficiencies in Morton, the Office Action relies upon Brockman to “modify Morton ‘260 to extend the anchoring device/fiber composite material into a second portion which perpendicular to a first portion and fixedly attach this second portion to the foundation/footing to reinforce/protect the foundation.” Absent Applicant’s own disclosure, the modification to Morton is neither suggested nor generally known in the art. Absent such a suggestion, there would be no reason why one skilled in the art, faced with the same problem confronting Applicant, would consult Morton and Brockman as suggested by the Office Action. Moreover, modifying Morton with Brockman, as suggested by the Office Action, would render Morton inoperable, as described below.

“A major aspect of [Morton] is providing a technique of strengthening vertically disposed masonry walls to increase their ability to resist laterally directed forces that may be applied to

one surface of the wall.” (Morton at col. 2, lines 35-38.) The primary objective of Morton is to strengthen masonry walls after they have been constructed. This is accomplished by applying components to the interior surface of a wall to avoid costly work on the exterior of the wall. (Morton at col. 5, line 64, to col. 6, line 2.) In contrast, Brockman supplies a continuous shield around the perimeter of a structure at the outer edge of the foundation and provides an apparatus for deterring subterranean termites, insects, and vermin from entering the structure at their most frequent point of entry, at the connection of the building’s exterior wall to the foundation. (Brockman at col. 1, lines 18-23.) As clearly seen in Brockman in Figures 1, 7, and 8, Brockman’s shield must be installed during construction of the structure and to the exterior foundation wall. According to Brockman, the assembly of exterior walls with studs 10 can be installed on the upstanding section 25 of the shield 44 and a section of the shield rests against the foundation exterior wall. (Brockman at col. 2, line 66, to col. 3, line 2; col. 3, lines 16-17.) As the exterior walls are installed on the shield 44, Brockman’s shield cannot be installed after construction. Thus, modifying Morton with Brockman would render the apparatus claimed in Morton inoperable. Accordingly, the rejection to claim 1 should be withdrawn. Claims 2-13 depend ultimately from claim 1 and are, therefore, also allowable for at least the same reason as claim 1, as well as for reciting additional features.

Dependant claims 8-10 were further rejected under 35 U.S.C. § 103(a) as being unpatentable over Morton in view of Brockman and Adams. Claims 8-10 depend ultimately from claim 1. Irrespective of the additional ground of rejection cited against claims 8-10, these claims are allowable since they depend upon an allowable independent base claim. Accordingly, the rejection to claims 8-10 should be withdrawn. Thus, claims 1-13 are allowable.

B. Claims 14-22

Claims 14-18 and 22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Morton in view of Brockman. Claims 19-21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Morton in view of Brockman and Adams. Claims 15-22 depend ultimately from independent claim 14. Applicant respectfully traverses the rejection to claim 14, because neither Morton nor Brockman, singularly or in combination, teaches or suggests every element of independent claim 14.

Claim 14 claims, a construction system, which includes “one or more anchoring devices, each anchoring device having . . . a second portion . . . the second portion of each anchoring device fixedly attached to the base member . . . wherein each anchoring device comprises a fiber composite material.”

As recognized by the Office Action, Morton does not disclose “a second portion of the anchoring device fixedly attached to a base member which is a foundation/footing . . .” Thus, Morton does not disclose “each anchoring device fixedly attached to the base member . . . wherein each anchoring device comprises a fiber composite material.” The Office Action cites Brockman for showing “a sheet material (44) made of plastic having a first portion (25) attached to a structural member (10, 12) and a second portion (29, 32, 34) fixed attached to a foundation/footing (14). . . .” The sheet material (44) disclosed in Brockman is made of plastic, which is not a fiber composite material. Thus, Brockman does not disclose “each anchoring device fixedly attached to the base member . . . wherein each anchoring device comprises a fiber composite material.” As neither Morton nor Brockman, alone or in combination, describes “each anchoring device fixedly attached to the base member . . . wherein each anchoring device comprises a fiber composite material,” claim 14 is patentable over Morton in view of Brockman.

Notwithstanding the deficiencies in Morton, the Office Action relies upon Brockman to modify Morton to extend the anchoring device into the second portion and fixedly attach the second portion to the base member. Absent Applicant’s own disclosure, the modification to Morton is neither suggested nor generally known in the art. Absent such a suggestion, there would be no reason why one skilled in the art, faced with the same problem confronting Applicant, would consult Morton and Brockman as suggested by the Office Action. Moreover, as discussed above with reference to claims 1-13, modifying Morton with Brockman, as suggested by the Office Action, would render Morton inoperable.

Accordingly, the rejection to claim 14 should be withdrawn. Claims 15-22 depend ultimately from claim 14 and are, therefore, also allowable for at least the same reason as claim 14, as well as for reciting additional features.

Dependent claims 19-21 were further rejected under 35 U.S.C. § 103(a) as being unpatentable over Morton in view of Brockman and Adams. Claims 19-21 depend ultimately from independent claim 14. Irrespective of the additional ground of rejection cited against claims 19-21, these claims are allowable since they depend from an allowable independent base

claim. Accordingly, the rejection to claims 19-21 should be withdrawn. Thus, claims 14-22 are allowable.

C. Claims 23-31

Claims 23-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Morton in view of Brockman and Adams. Claims 24-31 depend ultimately from independent claim 23. Applicant respectfully traverses the rejection to independent claim 23 because none of Morton, Brockman, or Adams, singularly or in combination, teaches or suggests every element of claim 23.

Claim 23 claims a construction method for anchoring a structural member of a building to a base member of a building, which includes “fixedly attaching a second portion of the composite fiber anchor to the base member.”

As recognized by the Office Action, Morton does not disclose “a second portion of the anchoring device fixedly attached to a base member which is a foundation/footing” Thus, Morton does not disclose “fixedly attaching . . . the composite fiber anchor to the base member.” The Office Action cites Brockman for showing “a sheet material (44) made of plastic having a first portion (25) attached to a structural member (10, 12) and a second portion (29, 32, 34) fixed attached to a foundation/footing (14). . . .” The sheet material (44) disclosed in Brockman is made of plastic, which is not a fiber composite material. Thus, Brockman does not disclose “fixedly attaching . . . the composite fiber anchor to the base member.” As neither Morton nor Brockman, alone or in combination, describes “fixedly attaching . . . the composite fiber anchor to the base member,” claim 23 is patentable over Morton in view of Brockman.

Notwithstanding the deficiencies in Morton, the Office Action relies upon Brockman to modify Morton to extend the anchoring device into the second portion and fixedly attach the second portion to the base member. Absent Applicant’s own disclosure, the modification to Morton is neither suggested nor generally known in the art. Absent such a suggestion, there would be no reason why one skilled in the art, faced with the same problem confronting Applicant, would consult Morton and Brockman as suggested by the Office Action. Moreover, as discussed above with reference to Claims 1-13, modifying Morton with Brockman, as suggested by the Office Action, would render Morton inoperable.

The Office Action further cites Adams for teaching a "concrete footer block and foundation system comprising a base for footer blocks 10 having internal grove 18a, 18b, an anchoring device 30 is partially disposed within the grove along with reinforcement rods or elongated members 24 disposed within the groove." However, Adams does not disclose composite fiber anchors. Thus, Adams does not disclose "fixedly attaching . . . the composite fiber anchor to the base member."

Moreover, the Office Action acknowledges that Morton, Brockman, and Adams do not disclose the method cited in claims 23-31. Accordingly, the rejection to claim 23 should be withdrawn. Claims 24-31 depend ultimately from claim 23 and are, therefore, also allowable for at least the same reason as claim 23, as well as for reciting additional features. Accordingly, the rejections to claims 24-31 should also be withdrawn.

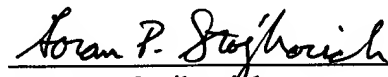
CONCLUSION

Applicant respectfully submits that claims 1-31 are allowable. A favorable Office Action is respectfully solicited. The Examiner is invited to contact the undersigned by telephone to discuss any matter related to the Application.

Respectfully submitted,

Dated: February 25, 2003

By:



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